



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 31, 2017
MAHS Docket No.: 17-002740
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. The Respondent was represented by herself.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of FAP benefits from the Department.
2. The Respondent completed a Redetermination on [REDACTED], for a group size of six members. The Respondent reported her employment with [REDACTED] but did not report her spouse's new employment with [REDACTED], which began on [REDACTED]. (Exhibit F, p. 26.)
3. During a redetermination phone interview on [REDACTED], the Petitioner did not report her spouse's employment and first paycheck, which was received on January 29, 2016. (Exhibit E.)

4. The Department sent the Respondent a Notice of Overissuance on [REDACTED], advising the Respondent that due to client (Respondent) error the Department was seeking an OI of FAP benefits in the amount of \$ [REDACTED] (Exhibit A.)
5. Due to the failure to report Respondent's spouse's income, the Respondent received more FAP benefits than she was otherwise entitled to receive. (Exhibits B and C.)
6. The Department alleges Respondent received an FAP OI during the period [REDACTED], through [REDACTED], due to **Respondent's** error.
7. The Department alleges that Respondent received \$ [REDACTED] OI that is still due and owing to the Department.
8. The Respondent requested a hearing on [REDACTED], protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001 to .3015.

In this case, the Department seeks to recoup an OI for FAP benefits it alleges were over issued due to the Respondent's alleged failure to report her spouse's beginning of employment and the income associated with the employment beginning [REDACTED] [REDACTED] (Exhibit D.) The Department presented the actual income received by the Respondent's spouse based upon the Work Number for the period [REDACTED]; and [REDACTED]. (Exhibit D, p. 16.) The failure of Respondent to report the employment and starting of income resulted in an OI in the amount of \$ [REDACTED]. The Department seeks an OI for [REDACTED] through [REDACTED].

Department policy states that DHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 (July 2014), pp. 16-17. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive. BAM 725, p. 17 and see also BAM 715 (July 2014), pp. 11-12.

The OI amount is the benefit amount the group or provider actually received minus the amount the group was eligible to receive in order to establish a client OI the amount must be more than \$ [REDACTED] BAM 715 (January 1, 2016), p. 6. A client error, which is alleged in the instant matter exists when the client's timely request for hearing results in the suspension of the Michigan Department of Health and Human Services action and any of the following: the hearing decision upholds the MDHHS action, the client withdraws the hearing request or the client fails to appear for the hearing which is not rescheduled. In this case client error results as a result of the issuance of this Hearing Decision and the client failing to appear for the hearing she requested. BAM 715, p. 1.

In this case, the evidence presented clearly demonstrated that the Respondent failed to report employment for her spouse, which began [REDACTED]. (Exhibit D, p. 15.) The Department presented OI budgets for the months of [REDACTED], through [REDACTED]. The budgets were reviewed at the hearing, and the unreported earned income used to calculate the OI was cross-referenced with the income reported by the Work Number. Based on this review, the Department clearly established that for the months in question, the Respondent received an OI in the amount of \$ [REDACTED] (Exhibit C, pp. 7-13.) The Department also established that the Respondent was aware that she was required to report changes within 10 days of the change and failed to report the employment during the redetermination interview.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105 (October 1, 2016), p. 12. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 11.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month. BAM 105, p. 12.

Other changes must be reported within 10 days after the client is aware of them. BAM 105, pp. 11-12. These include, but are not limited to, changes in daycare needs or providers. BAM 105, p. 12.

The Department also applied the requirements found in Department policy in BAM 715 to establish the period of overissuance. Department policy states the OI period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months before the date it was referred to the RS, whichever is later. BAM 715, p. 4. To determine the first month of the OI period (for OI's 11/97 or later), the Department allows time for: (i) the client reporting period, per BAM 105; (ii) the full

standard of promptness (SOP) for change processing, per BAM 220; and (iii) the full negative action suspense period; see BAM 220, Effective Date of Change. BAM 715 (January 1, 2016), p. 5. Based on the above policy, the Department would apply the 10-day client reporting period, the 10-day processing period, and the 12-day negative action suspense period. BAM 715, p. 54. The Department properly determined the OI period.


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish an FAP benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$ [REDACTED] OI in accordance with Department policy and shall credit any prior recoupment of FAP benefits already recouped from Petitioner, if any.

LMF/jaf



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]